

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF MICHAEL STATEN § No. 100, 2010
FOR A WRIT OF MANDAMUS §

Submitted: March 1, 2010
Decided: March 15, 2010

Before **HOLLAND, BERGER** and **JACOBS**, Justices

ORDER

This 15th day of March 2010, it appears to the Court that:

(1) The petitioner, Michael Staten, seeks to invoke this Court’s original jurisdiction to issue an extraordinary writ of mandamus¹ to compel the Superior Court to modify his violation of probation (“VOP”) sentence for Conspiracy in the Second Degree, alleging that he has served Level V time in excess of the statutory maximum. The State of Delaware has filed an answer requesting that Staten’s petition be dismissed. We find that Staten’s petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be dismissed.

(2) The record reflects that, on March 16, 2006, Staten entered a plea of guilty to Maintaining a Building for Keeping Controlled Substances and Conspiracy in the Second Degree. On the first conviction, Staten was sentenced to 2 years incarceration at Level V. On the second conviction, he

¹ Del. Const. art. IV, §11(6); Supr. Ct. R. 43.

was sentenced to 2 years incarceration at Level V, to be suspended after 1 year for 18 months at Level III probation. Since that time, Staten has been found to have committed violations of probation on three occasions, first on November 19, 2008, again on January 14, 2009, and again on October 7, 2009.

(3) A writ of mandamus is an extraordinary remedy issued by this Court to compel a trial court to perform a duty.² As a condition precedent to the issuance of the writ, the petitioner must demonstrate that a) he has a clear right to the performance of the duty; b) no other adequate remedy is available; and c) the trial court has arbitrarily failed or refused to perform its duty.³ This Court does not have jurisdiction to instruct the Superior Court on how to manage its docket or to compel the Superior Court to decide a matter in a particular way.⁴

(4) There is no basis for the issuance of a writ of mandamus in this case. Not only has Staten failed to demonstrate that the Superior Court has arbitrarily failed or refused to perform a duty clearly owed to him, he has failed to show that an appeal from his VOP sentences is an inadequate remedy. To the extent that Staten requests this Court to compel the Superior

² *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

³ *Id.*

⁴ *Id.*

Court to rule in a particular way, this Court lacks jurisdiction to issue a writ of mandamus on that basis.

NOW, THEREFORE, IT IS ORDERED that Staten's petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Carolyn Berger
Justice